App F IX 4

Previous References

1948-49
(ML)

File No 57-48

Serial Nos ~~4 15~~
11, 12, 15, 16

Later References
ML Dep No 463/49

GENERAL AND REVENUE SECRETARIAT

Serial Nos four

EXP 125

Part B for Sept '49

SUBJECT

Election of Sri K V Narasappa as Presdt to the Shikarpur Town Municipality

---

To

The Compiler, Mysore Gazette

No L 2576/D 5-9-49

Notifies

5101/M1

Election of Sri K V Narasappa as President of the Shikarpur Town Mlly

From,

The Deputy Commr Shimoga Dt

No M3 C 2825-441/47-48 dt 3-1-49

Requests approval of Govt to the election of Sri K V Narasappa as President of the Shikarpur Town Mlly

1) The D C states that an objection petition has been filed by Sri Hoggappa and others contesting the elections held

2) The D C recommends that the Rule 11 of the election rules, if the Proviso may be exempted in the case of ~~Pres~~ the election of the Presidents of Municipalities and requests the approval of Sri K V Narasappa as President of the Shikarpur Town Mlly, pending the recall of the ~~the~~ Reports of the enquiry

Submitted for orders

The 3) Even in the case of Rule 1/45 Parsidents the rule cited does not appear to contemplate the notifying of the result of the election when there is an objection petition pending the DC's recommendation is for orders

By 15-1-49 4) Pl bring up with a copy of the above proceedings.

15/1/49

5) Election for the Vice President, Thiruvaiyaru Municipality was held on 30.9.48

6) An objection petition has been filed against the election of one of the 10 elected councillors before the D.C. Thiruvaiyaru as required by the rules presented in this behalf. The Revenue Divisional Officer has been asked to enquire into it & report

7) In the meanwhile the Dy. Collector recommends that pending the result of the report of the enquiry, the elected candidate be allowed to maybe put in office & the first meeting of the Municipality may be convened. There is no provision in the rules in this behalf

8) The D.C. Thiruvaiyaru will therefore be requested to expedite the enquiry report very early

9) The question of amending the rules so as to allow the successful candidate to take charge of the office immediately on declaration of the result is under consideration separately

for personal law

18/1/49

1911

10) Action may be taken as noted above

19/1/49

Minister (L.S.G.)

11) I agree as above

24/1/49

TI[illegible] OF
C[illegible]NT
3562
20/1/49

election of ... of the Shikarpur Town Mly

5/2/49

12) Dft letter put up for 1/2/49

13) A draft letter is put up

Sm 1/2/49 Pr 2-2-49

14) Done for 2/2/49

To,

The Dy Comsnr Shimoga Dt

No L8919/rel 57-48-2 7-2-49

Calls for a report

From,

The Dy Comsnr Shimoga Dt

No M3 C2 2825-441/47-48 dt 3-2-49

Requests for the return of the objection petition of Sri Heggappa and others

A draft letter is put up

Sm 12/2/49 Issue Pr 14-2-49

To,

The Dy Comsnr Shimoga Dt

No L9804/rel 57-48-12 16-2-49

~~Calls for a report~~

Returns the records

Sect A 19/2/49

Election of Mr K L Narasappa as President of the Shikaripur Town Municipality

From,

The D C Shimoga

No M3 C 2825/47-48 19/21 - 2 July 1949

States that orders have been issued to the Official President of the M I C to hand over charge

Sd for perusal the receipt of further report called for in letter No L8919/7-2 49 will be awaited

7/7/49 13) The records asked to have been sent

4/3/49 & 4/3/49 16) Seen ~~Put up~~ The receipt of the report from the D C will be awaited

In the meanwhile, the report may please be

that he may issue ~~issued~~ orders to the President to take immediate action as necessary

over charge of the office of the President to the President elect (nominee) as per

amended rule issued on 26/1/49 is for perusal

Secy 7/8/49

Dy 7/8/49

Under Secy 7/8/49

17) R 10/8/49

Dy 10/8/49

Reminder Sent 13/4

Issued By 19/4/49

HIL001 19/4/49

Sus A 16/3/49

RD M3

OFFICE OF THE MINISTER FOR LOCAL SELF GOVERNMENT
No 4335
Dt 9/3/49

64 Election of
as President of the Shikaripur Town Municipality
to remander in principle appeal

592

Suo M
2-9 6 49 Issued 16/7/49

To The Dy Commr Shimoga Dr
No L 164/ 8-7-1949
Remands

Sus A
6-7-49

From
The Dy Commr Shimoga
No M3 C 2825-441 dated 21st July 49
Furnishes opinion.

18) The objection petition received from Sri Hegga-ppa and others in this behalf was sent to the S D O, Sagar for enquiry and report

19) It is reported that, during the enquiry, only objection No 2 viz that fifteen clear days' notice for the special meeting was not given, was pressed by the Counsel for the petitioner.

20) It is stated that the authority

646

592

Election of Sri K V Narasappa, as Pdt of the Shikaripur Town M C L by the Council

law quoted in: Frank Shacleton's "Law of Practice of meetings"

Subd for perusal and orders

21) The other objections raised are also assailed by the Dy Comm who holds that they are untenable

25/7/49

25/7/49

22) The opinion of the Law Department may be obtained on the several points referred to in the objection petition & the findings of the D C thereon

26/7/49

23) 27/7/49

Law Secy

LL D SECTT

28 JUL 1949

GOVT OF MYSORE

28/7

24) The objections relate to several Government orders issued by the Municipal Branch in the circumstances, the Administrative Secretariat ~~will~~ may be requested to kindly furnish information on the following points

1 The points of law on which opinion is required

2 The views of the Administrative Secretariat on the objections together with precedents in that behalf

3 The rules and regulations governing the election

SECRET DEPARTMENT

27 JUL 1949

25) 28/7/49

Law Secy

Secretary

Govt

26) 28/7/49

Addl Asst Secy

Election of the Shikaripur Town Municipal

592
m/1

26) It is stated appears to be open to obtain legal opinion in the matter of objection no (2) raised in the objection dated 10/3/1942 that fifteen clear days' notice of the special meeting was not given. A Copy of the Rules of Election is put up

To register, Sri Nallappa

27) Filing up forms

Sri 11/8/42

28) The following are the objections raised the objection petitions

a) that Sri Narasappa was not qualified to be a member of the Municipal Council

(b) that 15 clear days notice for the special meeting was not given

(c) that the Calender of events was issued prior to the receipt of the Notification sanctioning the privilege of the election of a non-official President

(d) that the voting papers did not contain the symbols of the

... Shri K.V Narasappa as President of the Shikarpur Town Mlc

592
Ref

Candidates to enable Municipal Councillors to vote

(e) that secrecy in the conduct of election proceedings was not maintained

29) The S D O, to whom the petition was sent for enquiry and report, has stated in his report that the objections (a), (c), (d) and (e) do not stand. It is also reported that these objections were not raised by the Counsel for the petitioner during the enquiry for the same reasons

30) ~~The Collector~~ As regards the objection (b). the contention of the Counsel is that ~~there is no~~ fifteen clear days notice for the special meeting was not given

31). It is reported that the authority quoted by the Counsel is Frank Shackleton "The Law of Practice of Meetings"

32) The S D O reports that the ~~author~~

Serial No

6453
592

point whether the authority quoted is to be accepted or not is to be decided by the Govt

33) The Dy Commr also holds that the objections (a) (c), (d) and (e) are not tenable

34) As regards the objection (b) the Dy Commr Shimoga at states that the proviso to Rule 1 of the Rules for the election of the Pdt, of a Town Mll Council does not say anything about the need for 15 clear days' notice and he is of opinion that the provision seems to have an application to the rules for the Presidential election

Subd for orders

11/8/49 By 12/8/49 35) The Law Deptt may be requested to furnish opinion on the points (a), (b) (c) (d) & (e) in para 28 above

36) There are no precedents bearing on these points in the Municipal Laws

37) A copy of the Election Rules is putup

38) Refer para 24 supra

Law 13/8/49

39) 16/8/49

Draw letter (HT)

SECRETARIAT OF MYSORE GENERAL DEPTS
To
Date 16/8/49
SECTION
17 13

Note —Contn Sheet 17/8

Serial No

40) The main objection of the petitioners is that 15 days notice of the meeting was not given and that therefore the election is invalid

41) It is seen from the proceedings before the Sub-Division Officer that all the other objections have been withdrawn by the petitioners

42) Rule 1 of the Rules regulating the election of Presidents of Town and Minor Municipalities provides that "at least 15 days' notice of any such meeting shall be given during the said period of one or two months as the case may be, by th Vice-President or in his absence, by the Chief Executive Officer of the Municipal Council

43) It is seen from the calendar of ~~minutes~~ work that the notice was issued on 15th September 1948 and the meeting held on 30th September 1948

44) The meetings of the Municipal Corporation to be legal must have been called by notice pursuant to some statutory authority and under the regulations and provisions of law with respect to them. The notice must give every member of the Corporation an opportunity of attending, otherwise the meeting is not duly convened

45) In the present case. the notice is given on 15th September 1948 that the meeting will be held on 30th September 1948 The rule does not specifically mention '15 clear days' Ordinarily in the absence of any special provision, the ~~memb~~ number of days must be 'clear', i e , exclusive of the day of service and the day on which the meeting is held (vide Procedure at Meetings by Crew, P 153) Again, when so many 'clear days' or so many days "at least" are given to do an act

WD 03853—GPB—30 000—11 5 48

Election of Sri K V Narasaiah as President - Shamsher Nagar

or "not less than" so many days are to intervene, both the terminal days are excluded from the computation (Interpretation of Statutes, Maxwell P 607) Computing on this basis, notice of the meeting to be held on 30th September 1948 being given on 15th September 1948 falls short of the statutory period by one day, and therefore, there is technically a breach of the Rule in question

46) A corporate meeting may be valid when notice of it has not been given provided all the members of the corporation are present and consent to the meeting being held (vide Law of Municipal Corporation by P D Iyyengar, P 136) In the present case, substantial notice is given and all the members appear to have taken part in the meeting No objection appears to have been taken at that time In the circumstances, the defect does not appear to be materially affect the validity of the election and the election appears to be valid

1378 Lawyers) 22/8

47) I agree with the views Expressed above The Election cannot be construed as in Valid as the ground of want of notice all members have taken part in the election without raising any objection (Halsbury Vol 8 P 553) It is stated that Even in a case the absence of notice where all the members of the body entitled to summons are in fact present and all Consent to the proceeding such a proceeding would be valid Similarly where

'6H9/L

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DM

the power to elect is in an aggregate of select bodies and all the members of each select body are in fact are present and agree that they will proceed to an election such election will be good" even if the due notice is not given to the members

48) In the present case notice has been given though it may be technically invalid considered as being invalid as being but all members were present and without any demur they have proceeded to election' Hence it appears to me the Election is Valid -

Genl Secy WRC) 1884/2587 Pvs 18 Pvs 2578

2/11/49

49) The Law opinion is for perusal in the cases reported, it is for orders if the election of Sri K V Narayanappa as the President of Shikaripur Town Municipal Council may be deemed as valid and proper under the circumstances.

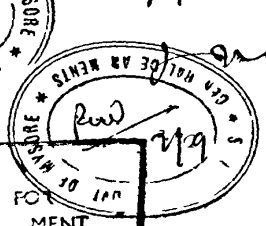
Paul Secy 2/11/49

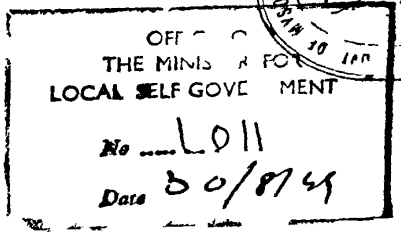
The legal opinion may be accepted

Minister of VSI 2/11/49

Approved 31/8/49

2/11/49





President of the Shikarpur Mly

13

General and Revenue Secretariat | File No | of 194 | [App F III–

Serial No

5-92/Ml

Done
on
8/9/49

To

The Compiler, Mysore Gazette 4

Notification No L 2576/Ml 57-48-16
D 5-9-49

Notifies

To

The D C, Shimoga Dt

" Prsdt, T Ml Bd, Shikarpur

Memo No L 2577-8/D 5-9-49

B2
27-9-49

NOTE—Cont Sheet

File No of 194

General and Revenue
Secretaria

Serial No	

Mh 37-48-11 - MC 5101

2825-441/47-48
Encls records

Office of the Deputy Commissioner,
Shimoga District,
Dated, Shimoga, 3rd January 1949

To

The Secretary to Government,
General Department,
BANGALORE

Sir,

Subject - Election of Sri K V Narasappa as President to the Shikaripur Town Municipality

In enclosing herewith the report received from the President, Municipal Council, Shikaripur on the subject noted above, I write to state that an objection petition has been filed by Sri Beggappa and others contesting the elections held A copy of the appeal petition is enclosed for favour of reference Under rule 8 of the election rules, the Sub Division Officer, Sagar has been appointed to conduct the enquiry and to report

In the election rules of Vice-Presidents to the Town Municipal Councils under rule 11 it is stated that pending report of enquiry the person elected could be put in office in cases in which there are reasons to believe that election has been duly held But such a provision has not been made with respect to the election for the post of the President This may have been because there were ex-officio Presidents before I request that such a provision may be made in the case of the election of the President also

In this case, however, I recommend in the interests of the Municipality, that Sri Narasappa elected candidate may be put in office pending the result of the report of enquiry and also request you for the issue of necessary notification in the Mysore Gazette to this effect

Yours faithfully,
S Doddamallappa
Deputy Commissioner,
Shimoga District

To,

The D C Shimoga ~~A~~ L 9604 16/L 5

Subject - Election of a President to the Shikaripur Town M Council

Sir,

In reference to your letter as desired in No M3 C2 2825-441/47-48, dated 3rd Feb 49, on the above subject, I am directed to return herewith the objection petition of Sri Heggappa and others ~~with the memo to the S.D.O. Sagar~~ with ten connected papers

Yours faithfully

For Secy to Govt
General Dept.
14/2/49

D O No M3 C2 2825-441/47-48

Office of the Deputy Commissioner,
Shimoga District,
Shimoga Dated, 3rd Feb 1949

4

Sri S Nanjundaiah,
I/c P A to the Deputy Commr ,
Shimoga District

GENERAL & REVENUE SECRETARIAT
6141
12 FEB 1949
MUNICIPAL BRANCH

Dear Sir,

I am desired to state that along with the records enclosed in this office even number dated 5-1-49 relating to the election of the President to Shikaripur Town Municipal Council, the objection petition of Sri Heggappa and other with the memo to the Sub Division Officer, Sagar for conducting the enquiry appears to have been wrongly enclosed and despatched to the General Secretary, since it is ascertained from the Sub Division Officer that the records have not been received by him.

I request you to kindly arrange for the early return of the papers ~~regarding~~ referred to, if they are in the file

Yours Sincerely
S Nanjundaiah
for Deputy Commissioner,
Shimoga District

To

Sri Ramachandra Rao, B A ,
Assistant to Secretary to Government,
General Department,
Bangalore

3

18919/ud 57-48-12

The

General Department.

To

The Deputy Commissioner,
Shimoga District

Sir,

Subject Election of Sri K V.Narasappa, as President of the Shikaripur Town Municipality.

With reference to your letter No H 3 C 2825-441/47-48 dated 3rd January 1949 on the above subject, I am directed to request you to obtain and submit the enquiry report from the Sub-Division Office, Sagar, very early.

Yours faithfully,

For Secretary to Government,
General Department.

To, LB919/MK 57-48-12 (2)
The Deputy Commr: 7-2-49
Shimoga Dt

Subject - Election of Sri K V Narasappa as President of the Shikarpur Town Mlly

Sir,

With reference to your letter No 113, C 2825-441/47-48 dated 3rd Jan 49 on the above subject, I am directed to request you to ~~arrange to get~~ Obtain and Submit the enquiry report from the Sub Division office, Sagar, very early.

Yours faithfully
for 7/2/49
for Secy to Govt
General Dept
By 2-49

6453/ml 6
1/3

No ml3 C 2825/4/1/47-48

Office of the Deputy Commissioner,
Shimoga District,
Shimoga, dated, 19th February 1949

To

The Secretary to Government,
General Department, Bangalore

Sir,

Subject - Election of Sri K V Narasappa as President, of the Shikaripur Town Municipality

With reference to your letter No L 8919/Ml 57-48-12 dated 1-2-49 on the subject noted above, I have the honour to invite reference to my letter of even number dated No C 2825-4-1 dated 3-2-49 requesting you kindly to return the objection petition and other papers which had wrongly been enclosed with the letter addressed to you instead of being enclosed with a communication addressed to the Sub Divisional Officer Sagar

In this connection I may now state that orders have been issued to the Official President of the Municipal Council to take immediate action regarding handing over charge as per the amended election rule 6(a) in Edn No 8506-Ml 57-48-15 dated 26-1-49

Yours faithfully,

for Deputy Commissioner,
Shimoga District
(Absent from Head quarters)

GENERAL AND REVENUE SECRETARIAT,

D O No L 164 *Dated, Bangalore,* 5 7 49

DEAR SIR,

I am desired to invite your attention to this Office letter No L 8919/MI57258-12, dated 7.2 49 and the subsequent Reminder No 12001/47 19 4 49 ~~remind rs,~~ calling for information in regard to the electing Smt C Nanjamma as President of the Shikarpur Town Municipality and to request that a reply thereto may kindly be ~~expedited~~ furnished at the earliest as the matter is ~~long pending~~ very urgent

Yours sincerely,

To

The Deputy Secretary (Rajaswa)

WD 02854—GPB—5 000—11 5 49

By ~ aist 1 Post.

8

No MB C 2825-441/47-48
Encl Records,

Office of the D puty Commissioner
Shimoga District
Shimoga dated 21st July 1949

Mh. 47-48-15

To

The Secretary to Government,
General Department, Bangalore

Sir,

Subject - Election of Sri H V Narasappa, as President to Shikaripur Town Municipal Council

---

With reference to your letter No L 8919/ 1 57-48-12 dated 7th February 1949 on the subject noted above, I have the honour to state as follows -

The Sub Division Officer, Sagar who was appointed to conduct the enquiry into the objection petition of Sri Veggappa has reported that the enquiry was completed on 27-3-49 His report regarding the result of enquiry was received on 27-6-49 by three months' delay

The grounds stated in the objection petition are (1) that Sri Narasappa was not qualified to be a Member of the Municipal Council (2) That fifteen clear days' notice for the special meeting was not given, (3) that the calendar of events was issued prior to the receipt of the Notification sanctioning the privilege of the election of a non-official President, (4) that the voting papers did not contain the symbols of the candidates to enable illiterate Councillors to vote, (5) that secrecy in the conduct of election proce dings was not maintained

The Sub Division Officer has reported that during the enquiry only objection No 2 was pressed by the Counsel for the petitioner This objection relates to the alleged failure to give fifteen clear days' notice for the conduct of the meeting The Sub Division Officer reports that the authority quoted is Frank Shacletons Law of practice of meeting. The Sub Division Officer has reported that the point whether the authority quoted is to be accepted or not is to be decided by the Government

Though the objections have not been pressed by the Council

they may however be discussed to determine the legality of the objections preferred

Objection- 1 Relates to the eligibility for the membership of Sri Narasappa The appointment of Sri Narasappa to the Council is as per Government Order No L 253/111 40-47-213 dated 8th July 1948

Objection- 2 The calendar of events framed on 15-9-48 was after the despatch of a copy of the order sanctioning the non-official President to the Municipality on 9-9-48 which was received by the Official President on 10-9-48

Objection - 3 The rules of election do not provide for assigning symbols to the candidates

Hence these objections are not tenable Objection No 1 does not appear to have been proved

The question of not providing an interval of 15 clear days between the notice for the meeting can only be considered in the light of the following facts appearing from the records received The notice to hold a special meeting on 30-9-48 was issued on 15-9-48

The proviso to Rule 1 of the Rules for the election of the President of a Town Municipal Council says that at least 15 days notice should be given in respect of a meeting held for the Presidential Election It does not say anything about the need for 15 clear days' notice It is only in Section 27(3) of the Town Municipal Act that a notice of the prescribed number of 'Clear' days in respect of the ordinary and special general meetings of the Council has been laid down That provision seems to have an application to the rules for the Presidential election

The entire records ~~xxxx~~ are enclosed for early orders

Yours faithfully,

S Narasimhaiah

For Deputy Commissioner
Shimoga District
(absent from Headquarters)

knr)

10

Copy of the appeal petition - to the Deputy Commissioner, Shimoga
Shimoga

Petitioners - 1 Sri K Hegappa son of Kariyolappa, aged about 40 years, Kuriba caste,

2 Sri Guribasappa son of Kutrappa, aged about 50 years, Lingayet,

3 Sri Nagappa son of Shirappa, aged about 40 years, Alikamatara by caste,

xx Municipal Councillors of Shikaripur Town Municipal Council, residents of Shikaripur Town

Versus

Respondent - Sri K V Narasappa, aged about 30 years, Panchitara caste, now resident of Shikaripur Town

Under Rule 7 of the Rules relating to the election of Presidents of Town and Minor Municipal Councils, the petitioners above named beg to state as follows -

1 For the election of a non official President to Shikaripur Town Municipal Council which was held on 30-9-1948, the 1st petitioner and the respondent were candidates and the result of the election namely that the respondent was elected was declared on 30-9-48, the 1st petitioner getting 7 votes and the respondent getting 14 votes This petition has been filed within ~~seven~~ seven days from the date of ~~the~~ declaration of the result of the election

2 The petitioners hereby contest the validity of the said election for the following among other grounds,

3 The respondent was not qualified to be a candidate for Presidentship as he was not qualified to be a Councillor and ~~his~~ his membership when he was ~~wrongly~~ nominated as a Councillor after the Bye-election dated 31-10-47, he was not enrolled in the Municipal election Roll and he was not a resident of Shikaripur Town and as such under section 11(3) of the Town Municipalities Act he was not qualified to be a Councillor and his membership as a Councillor therefore was a nullity and he could not therefore be qualified to be a candidate for the Presidentship

4 Fifteen days' notice of meeting for the election of the President was not given to the Councillors and therefore the meeting and also the election held at the said meeting was illegal

5 The calendar of events drawn up for the election of the President on 15-9-1948 was prior to the ~~xx~~ publication of the order of the Government granting the privilege of electing a non official President to the Municipality and as such the election is vitiated

6 Some of the Councillors are ~~xxxxxxx~~ illiterate and they do not know how to read Voting slips will not contain any symbols of the Candidates to enable the illiterate Councillors to record their votes The secrecy of ballot was not maintained at the election and it has materially affected the result of the election and the election therefore is void and is vitiated

The petitioners, therefore most, humbly and respectfully submit that an enquiry into the validity of the objections be held and a report be sent to the Government for setting aside the Election of the respondent and for declaring that the first petitioner is duly elected as President

p t o

The Petitioners further submit that the following documents be summoned from the said Municipality as they are very necessary for the enquiry

1 Electoral Roll of Shikarpur town Municipality on 31-10-1947

2 The resolution of the Municipality regarding approval of the Govern ent of the nomination of Sri K V Narasappa

3 Sri K V Narasappa's application to include him in the Electoral roll and the resolution of the Municipal Council dated

4 Copy of the Calender of events for the Election of the Presidents

5 Notice serving served on the Councillors for the meeting dated 30-9-1948

6 The ballot box containing the ballot papers of the Election

7 The proceedings of the meeting dated 30-9-48

Copy"

For Deputy Commissioner
Shimoga

No L 2576/Rev 37-48-16
W B 55-9-1949

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated Bangalore 5-9-1949

13 Copies

NOTIFICATION

Under Section 23 (2) (C) of the Mysore ~~Section 10 (2) (C) of the Mysore~~ Town Municipalities Act 1933 ~~Minor Municipalities Act, 1933~~ Sri K V Narasappa is elected President of the Shikaripur Town Municipal Council ~~Minor Municipal Council~~ Shimoga District.

By Order,

Secretary to Government
~~Law~~ Revenue Department

To

The Compiler Mysore Gazette for publication in part III-3 of the Gazette and supply of five copies thereof to the Secretariat and the Deputy Commissioner Shimoga District

Memo No L 2577/Rev 5 9-1949

Copy of the above is forwarded with compliments to the Deputy Commissioner Shimoga District for information with reference to his letter No M3 C 282 5-441 dated 21-7-1949

The records accompany

By Order

No L 2577/Rev 5-9-1949

For Secretary to Government
~~Law~~ Revenue Department

Copy to the President Shikaripur Town Municipal Council